

Introduced by Senators Migden and Perata

February 22, 2008

An act to amend Sections 108935, 108937, and 108939 of the Health and Safety Code, relating to product safety.

LEGISLATIVE COUNSEL'S DIGEST

SB 1713, as introduced, Migden. Children's products: bisphenol and lead.

Existing law, commencing January 1, 2009, prohibits the manufacture, sale, or distribution in commerce of certain toys and child care articles, as defined, if those products contain types of phthalates in concentrations exceeding $\frac{1}{10}$ of 1%.

It also requires manufacturers to use the least toxic alternative when replacing phthalates in their products and would prohibit manufacturers from replacing phthalates with certain carcinogens and reproductive toxicants.

This bill would revise the definition of child care article to include any product designed or intended by a manufacturer for use either on or by children.

The bill would apply the above-described prohibition and least toxic alternative requirements to certain toys and child care articles that contain bisphenol A or lead in detectable levels.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
2 following:

1 (a) In 2007, the Legislature enacted a law to ban phthalates, a
2 class of chemicals used in polyvinyl chloride (PVC) plastic to
3 improve flexibility and in cosmetics to bind fragrance to the
4 product.

5 (b) That law limited the ban to phthalates in products intended
6 for use by young children, such as teethingers, toys, and soft plastic
7 books.

8 (c) There is increasing scientific and public health information
9 showing that phthalates in other products used by children, such
10 as skin care and cosmetic products, are of concern and are found
11 in humans at levels associated with adverse effects.

12 (d) There is further evidence that levels of lead and bisphenol
13 A (BPA) also pose significant health concerns for children.

14 (e) The purpose of this act is to build on the law enacted in 2007
15 to ensure that children are not exposed to potentially harmful
16 toxins.

17 SEC. 2. Section 108935 of the Health and Safety Code is
18 amended to read:

19 108935. For the purposes of this chapter, the following terms
20 have the following meanings:

21 (a) “Toy” means all products designed or intended by the
22 manufacturer to be used by children when they play.

23 (b) “Child care article” means ~~all products~~ *any product* designed
24 or intended by ~~the~~ *a* manufacturer *for use either on or by children,*
25 *or* to facilitate sleep, relaxation, or the feeding of children, or to
26 help children with sucking or teething.

27 SEC. 3. Section 108937 of the Health and Safety Code is
28 amended to read:

29 ~~108937. (a) Commencing January 1, 2009, no~~ *No* person or
30 entity shall manufacture, sell, or distribute in commerce any toy
31 or child care article that contains di-(2-ethylhexyl) phthalate
32 (DEHP), dibutyl phthalate (DBP), or benzyl butyl phthalate (BBP),
33 in concentrations exceeding 0.1 percent.

34 ~~(b) Commencing January 1, 2009, no~~ *No* person or entity shall
35 manufacture, sell, or distribute in commerce any toy or child care
36 article intended for use by a child under three years of age if that
37 product can be placed in the child’s mouth and contains diisononyl
38 phthalate (DINP), diisodecyl phthalate (DIDP), or di-n-octyl
39 phthalate (DnOP), in concentrations exceeding 0.1 percent.

1 (c) No person or entity shall manufacture, sell, or distribute in
2 commerce any toy or child care article intended for use by a child
3 under three years of age if that product contains bisphenol A in
4 detectable levels.

5 (d) No person or entity shall manufacture, sell, or distribute in
6 commerce any toy or child care article intended for use by a child
7 under three years of age if that product contains lead in detectable
8 levels.

9 SEC. 4. Section 108939 of the Health and Safety Code is
10 amended to read:

11 108939. (a) Manufacturers shall use the least toxic alternative
12 when replacing *bisphenol A*, *lead*, and phthalates in accordance
13 with this chapter.

14 (b) Manufacturers shall not replace *bisphenol A*, *lead*, and
15 phthalates, pursuant to this chapter, with carcinogens rated by the
16 United States Environmental Protection Agency as A, B, or C
17 carcinogens, or substances listed as known or likely carcinogens,
18 known to be human carcinogens, likely to be human carcinogens,
19 or suggestive of being human carcinogens, as described in the
20 “List of Chemicals Evaluated for Carcinogenic Potential,” or
21 known to the state to cause cancer as listed in the California Safe
22 Drinking Water Act (Chapter 4 (commencing with Section 116270)
23 of Part 12).

24 (c) Manufacturers shall not replace *bisphenol A*, *lead*, and
25 phthalates, pursuant to this chapter, with reproductive toxicants
26 that cause birth defects, reproductive harm, or developmental harm
27 as identified by the United States Environmental Protection Agency
28 or listed in the California Safe Drinking Water Act (Chapter 4
29 (commencing with Section 116270) of Part 12).